

## HOUSE BILL NO. 479

INTRODUCED BY R. HAWK

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES TO DEVELOP AND IMPLEMENT LOCAL PERMITTING PROCESSES DETERMINED NECESSARY TO PRESERVE COUNTY ROADS AND BRIDGES FROM EXTRAORDINARY DAMAGE OR ACCELERATED DETERIORATION AND TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT FROM AIRBORNE OR WATERBORNE CONTAMINANTS RESULTING FROM THE USE OF COUNTY ROADS; AUTHORIZING COUNTIES TO DEVELOP AND IMPLEMENT LOCAL PERMITTING PROCESSES NECESSARY TO PRESERVE THE LEVEL AND SCOPE OF MAINTENANCE DETERMINED NECESSARY ON COUNTY ROADS; AMENDING SECTIONS 7-14-2101, 7-14-2103, AND 61-10-128, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-14-2101, MCA, is amended to read:

**"7-14-2101. General powers of county relating to roads and bridges -- definitions.** (1) The board of county commissioners, under the limitations and restrictions that are prescribed by law, may:

(a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

(ii) develop and implement local permitting processes determined necessary to:

(A) preserve county roads and bridges from extraordinary damage or accelerated deterioration; and

(B) protect human health and the environment from airborne or waterborne contaminants resulting from the use of county roads;

~~(ii)(iii)~~ subject to 15-10-420, levy taxes for the laying out, maintenance, control, and management of the county roads and bridges within the county as provided by law;

(b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage, and improve county roads and bridges in adjacent counties, wholly or in part as agreed upon between the boards of the counties concerned;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, management, and improvement of county roads and bridges in adjacent counties or shared jointly with other counties, as agreed upon between the boards of the counties concerned and as provided by law;

(c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, the state, or the United States;

(ii) subject to 15-10-420, place a joint project in the budget and levy taxes for a joint project as provided by law.

(2) Unless the context requires otherwise, for the purposes of this chapter, the following definitions apply:

(a) "bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills;

(b) "county road" means:

(i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county commissioners in accordance with this title;

(ii) a road that is dedicated for public use in the county and approved by resolution by a board of county commissioners; or

(iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by resolution as a county road by a board of county commissioners.

(3) (a) Following a public hearing, a board of county commissioners may accept by resolution a road that has not previously been considered a county road but that has been laid out, constructed, and maintained with state department of transportation or county funds.

(b) A survey is not required of an existing county road that is accepted by resolution by a board of county commissioners.

(c) A road that is abandoned by the state may be designated as a county road upon the acceptance and approval by resolution of a board of county commissioners."

**Section 2.** Section 7-14-2103, MCA, is amended to read:

**"7-14-2103. Duties of county commissioners concerning county roads.** (1) A board of county commissioners has general supervision over the county roads within the county.

(2) A board may survey, view, lay out, record, open, work, and maintain county roads that are established in accordance with this chapter. Guideposts must be erected.

(3) A board may discontinue or abandon county roads when freeholders properly petition for

1 discontinuance or abandonment.

2 (4) A board of county commissioners may determine the level and scope of maintenance on a county  
3 road under its jurisdiction; and may develop and implement local permitting processes determined necessary  
4 to preserve that level of maintenance on the county road. ~~a~~ A local entity or the state may not withhold funds  
5 based on the board's maintenance determinations."  
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7 **Section 3.** Section 61-10-128, MCA, is amended to read:

8 **"61-10-128. When authorities may restrict right to use roadway.** (1) A local authority may not alter  
9 the limitations provided in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 or substitute other  
10 limitations or requirements, except as provided in 7-4-2101(1)(a)(ii), 7-14-2103(4), and this section.

11 (2) The department of transportation by order, or a local road authority by ordinance or resolution, may  
12 prohibit the operation of or impose restrictions on the weight and speed of a vehicle traveling on a public highway  
13 under its respective jurisdiction and for which it is responsible for maintenance whenever the highway will be  
14 seriously damaged or destroyed by deterioration, rain, snow, or other climatic conditions, unless the use of  
15 vehicles on the highway is prohibited or the permissible vehicle weights and speed are reduced. The department  
16 of transportation or the authority that enacts the ordinance or resolution shall erect signs designating the  
17 department's order or the authority's ordinance or resolution at each end of that portion of the highway affected,  
18 and the order, ordinance, or resolution is not effective until the signs are erected. The department of  
19 transportation or the authority by ordinance or resolution may prohibit the operation of trucks or other commercial  
20 vehicles or impose limitations on their weight on designated highways, subject to the provisions of subsection  
21 (3). These prohibitions and limitations must be designated by appropriate signs placed on the highways.

22 (3) Neither the department of transportation nor a local authority may prohibit the operation of or impose  
23 a restriction on the weight of a vehicle loaded with perishable seed potatoes that is traveling on a public highway  
24 if:

25 (a) the vehicle is being operated within its legal licensed gross vehicle weight;

26 (b) the driver possesses a federal-state inspection certificate issued for the load; and

27 (c) the vehicle takes the most direct route from the point of loading to the nearest nonrestricted road.

28 (4) Hay grinders and their towing units are exempt from weight limits imposed by the department of  
29 transportation under this section."  
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